

USSN: 09/995,009
Group Art Unit: 3726
Docket No.: 127P67USC1

Remarks

This Amendment is submitted in response to the Final Office Action dated May 20, 2004. Being submitted herewith is a Three-Month Extension of Time, thereby extending the due date up to and including November 20, 2004. Since this Amendment is being submitted after final, Applicant respectfully submits that the present Amendment places the claims in condition for allowance and respectfully requests that the Amendment be entered.

First, Applicant's attorney would like to thank the Examiner for the courtesies extended during the Interview of November 9, 2004. During the Interview, a CD was played that showed the installation of the clips on a hose in a field. Claim 7 was discussed. The prior art of record (McNeill patent) was discussed. The differences between an integral assembly, as shown in the prior art and the separate assembly, as claimed in the present invention, was discussed. The general thrust of the argument was that the integral assembly of the prior art is not able to perform the same functions as the two discrete parts of the present invention wherein the hose and clip are not formed as an integral unit.

No other matters were generally discussed. The Examiner did not commit on the patentability of any changes. Specific changes were not discussed other than that the structure of the separate hose and clip be included in more detail.

The Examiner has rejected claims 7-9 as being unpatentable over the McNeill patent. It is the Examiner's position that although the McNeill clips are not moveable, it would have been obvious to one skilled in the art at the time of the invention to make the hose and clips as separate elements since it has been held that constructing a former integral structure in various elements involved only routine skill in the art. The Nerwin v. Erlichman case was cited. In that case, there was a question as to whether or not a single element was able to meet both functions of two separate elements. In the present case, the single element of the McNeill patent (an integral hose and clip) is not able to meet the multiple functions of the discrete elements of the present invention (a clip not integral with the hose) and therefore Applicant respectfully submits that the Nerwin case does not support the Examiner's position.

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However, Applicant has also agreed to amend the claim to further distinguish from the cited reference. The structure of the clip, in relationship to the hose has now been added. The clip is recited as having an inner diameter that is sized and configured to be secured around the hose and be moveable on the hose, wherein the clip is in contact with the outer surface of the hose.

It is respectfully submitted that the McNeill reference does not suggest such a combination. With the present claimed invention, it is possible that the clip, while installed at the factory, is able to be moved along the hose. This movement along the hose is very valuable during the installation process. The clips may be moved when an installer gets next to a post. Also, the clips are able to be moved so as to direct water that is flowing out of the emitter to drop on to the ground. The water can flow down from the emitter along the hose until it reaches the clip, where the water would then fall on to the ground. By doing so, the clip is able to be precisely positioned above the plant that needs to be watered and this can be very important to provide for a good crop.

Applicant respectfully requests reconsideration and allowance of the claims in light of the foregoing. If the Examiner has any questions regarding the foregoing, he is respectfully requested to call the undersigned at (612) 331-7415.

Respectfully submitted,

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